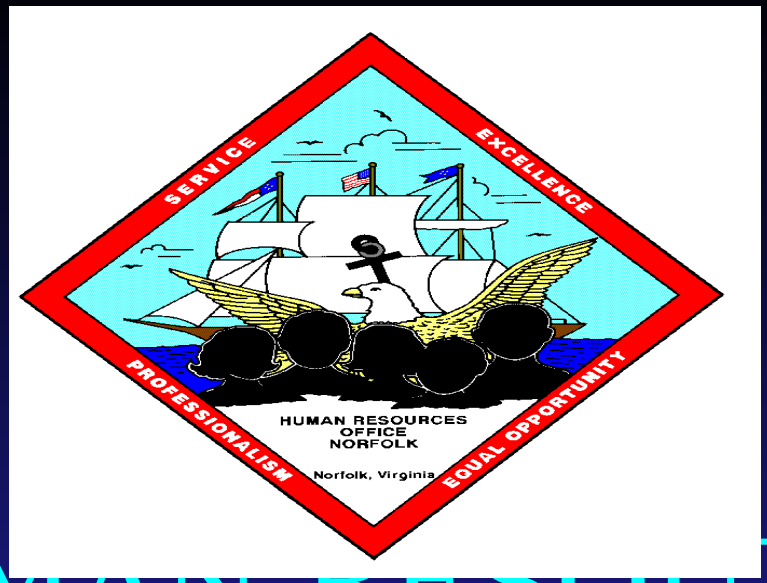

HUMAN RESOURCES OFFICE (HRO), NORFOLK

REASONABLE ACCOMMODATION ON-LINE TRAINING

HOW DOES THE ON-LINE TRAINING PROGRAM WORK?

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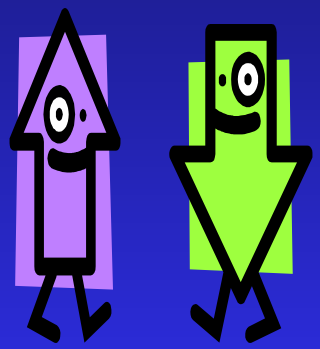


TRAINING OBJECTIVES

- ✓Understand laws protecting employees and/or applicants for employment with a disability
- ✓Understand the definition of disability (physical and/or mental) as defined by the Equal Employment Opportunity Commission (EEOC)
- ✓Understand the definition of “qualified” individual with a disability as defined by EEOC
- ✓Understand the definition of reasonable accommodation
- ✓Understand the process of requesting a reasonable accommodation

REHABILITATION ACT OF 1973

Requires Federal agencies to provide reasonable accommodation to **qualified** employees and applicants with disabilities, unless to do so would cause an **undue hardship**.

AMERICANS WITH DISABILITIES ACT (ADA) OF 1990

Title I of the ADA prohibits private employers, state and local governments, employment agencies and labor unions from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment.

The ADA covers employers with 15 or more employees, including state and local governments. It also applies to employment agencies and to labor organizations. The ADA's nondiscrimination standards also apply to federal sector employees under section 501 of the Rehabilitation Act, as amended, and its implementing rules.

DEFINITIONS

- **AN INDIVIDUAL WITH A DISABILITY IS A PERSON WHO:**

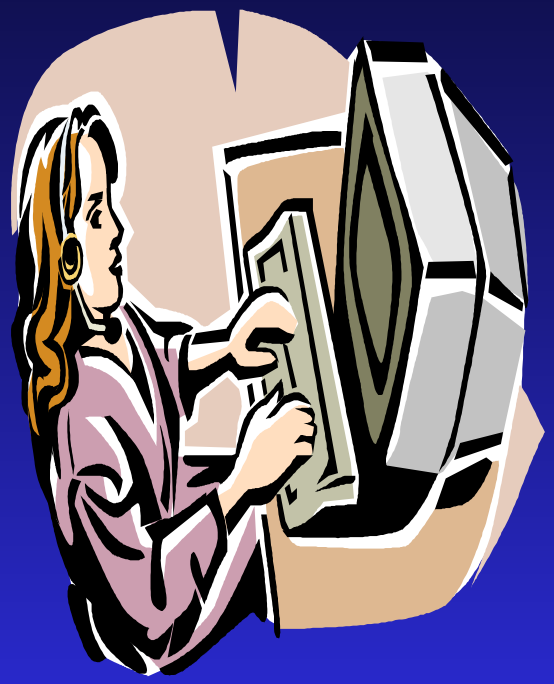
- **Has a physical or mental impairment that substantially limits one or more major life activities (e.g., hearing, seeing, walking, speaking, breathing, caring for oneself, performing manual tasks, and working);**
- **Has a record of such an impairment; or**
- **Is regarded as having such an impairment.**

- **WHO IS A "QUALIFIED" INDIVIDUAL WITH A DISABILITY?**

- **A person who satisfies the requisite skill, experience, education, and other job related requirements of the position and who can perform the "essential functions" of the position with or without reasonable accommodation.**

WHAT IS AN ESSENTIAL FUNCTION?

- Position exists to perform that function
- Limited number of employees available to whom the performance of the job function can be distributed
- Highly specialized so that the incumbent of the position was hired for his/her expertise or ability to perform the particular function



REASONABLE ACCOMMODATION

- In accordance with the Rehabilitation Act and ADA, an employer is required to make a reasonable accommodation to the known disability of a “**qualified**” applicant or employee if it would not impose an "**undue hardship**" on the operation of the employer's business.

WHAT IS REASONABLE ACCOMMODATION?

- Any modification or adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to participate in the application process or perform essential job functions.
- Includes adjustments to assure that a qualified individual with a disability has rights and privileges in employment equal to those of employees without disabilities.

Modifying Work Sites
Accessible Facilities
Restructuring Jobs
REASONABLE
ACCOMMODATION
Modifying
Application
Procedures
Assistive
Devices
Flexible Leave Schedules/
Work Schedules

WHAT DOES THE TERM "**UNDUE HARDSHIP**" MEAN?

- This means that granting the requested accommodation would result in significant difficulty or expense and focuses on the resources and circumstances of the particular employer in relationship to cost or difficulty of providing a specific accommodation.

- An employer must assess on a case-by-case basis whether a particular reasonable accommodation would cause an undue hardship.

REASONABLE ACCOMMODATION EXAMPLES

- The following slides are examples of how a supervisor may accommodate an individual with a disability.
- **Just remember**, that these are examples only and each accommodation must be reviewed on a case-by-case basis!

REASONABLE ACCOMMODATION EXAMPLE #1

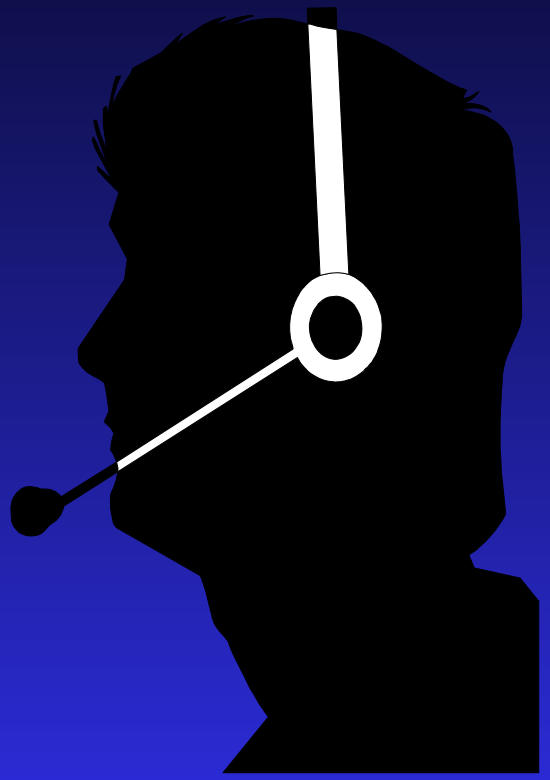
Modification or adjustment to the job application process.

Example: A person with a visual disability or a person who lacks manual dexterity may need help filling out the application.

REASONABLE ACCOMMODATION EXAMPLE #2

Modification or adjustment to allow a qualified individual with a disability to perform the essential functions of the job.

<u>Example</u>: Acquisition or modification of equipment or devices such as a telephone headset for an employee who has limited use of his hands.



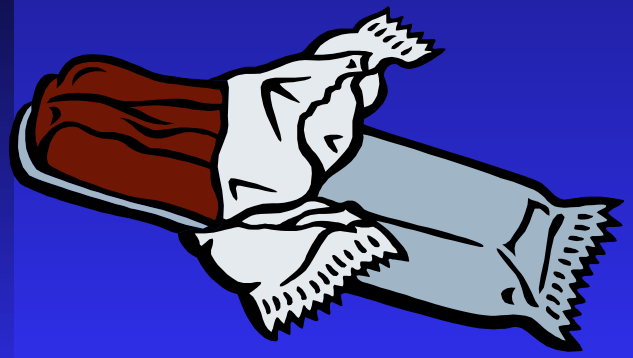
REASONABLE ACCOMMODATION EXAMPLE #3

Modifications and adjustments that enable employees with disabilities to enjoy benefits and privileges of employment.

Example: If an employee lounge is not accessible to an employee using a wheelchair, the lounge might be modified or relocated, to enable the individual to take breaks with co-workers.

REASONABLE ACCOMMODATION Example # 4

Lynn's department prohibits employees from eating or drinking at their work stations. Lynn has insulin dependent diabetes. She asks her supervisor to permit her to eat a candy bar or drink fruit juice at her desk if necessary to avoid going into insulin shock.



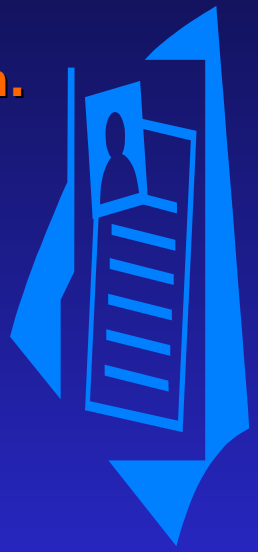
- Request should be granted once medical documentation is provided or immediately if the condition is already documented.

- **Supervisor should discuss with Lynn that the accommodation is being made, when necessary, and she should attempt to comply with the prohibition when feasible.**

REASONABLE ACCOMMODATION Example # 5

Richard has a severe learning disability. Richard's job requires that he attend numerous meetings and remember the details of what is discussed. Richard asks to be provided with a laptop computer or to have the meetings taped for him. Richard is reluctant to request reasonable accommodation for his disability because he also tested positive for HIV and does not want this disclosed.

- Richard only needs to provide information relating to his learning disability and his requested accommodation.
  - The information on HIV should not be provided.
  - If Richard is concerned about unintentional disclosure, he may request that a designated 3rd party review the information and decide what to disclose to the supervisor.



NOTE: The agency designates the 3rd party.

REASONABLE ACCOMMODATION

- Remember, the purpose of reasonable accommodation is to **EXPAND** opportunities for people with disabilities and **NOT** to create new requirements to perform the job.

REASONABLE ACCOMMODATION

- **SUPERVISORS**: It is important to note that an individual may use "plain English" and not mention the Rehabilitation Act or ADA or even use the phrase "reasonable accommodation." Example:
- An employee asks for leave because he is "depressed and stressed." The employee has communicated a request for a change at work (time off) for a reason related to a medical condition. This statement is sufficient to put the employer on notice that the employee is requesting reasonable accommodation.

THE ACCOMMODATION REQUEST

- **The accommodation request is a statement (does not initially have to be in writing) made to a supervisor that an individual needs an adjustment or change *at work* or *in the application process* for a reason related to a medical condition.**

- **The individual may use the attached form to request the accommodation.**
  http://www.hronorfolk.navy.mil/EEO/RA_TEMPLATE.pdf

- **SUPERVISORS/MANAGERS: Once the request is made this is the beginning of an interactive process between management and the individual. You must act upon the request!**

QUESTIONS FOR SUPERVISORS IN THE INTERACTIVE PROCESS:

1. Does the person claim that they have a present physical or mental impairment? If so, what is the impairment? The employee should be asked to describe the impairment in some detail, if it is not otherwise obvious (i. e., the individual is blind or deaf or confined to a wheelchair, etc.).

2. Does the impairment substantially limit a major life activity? The employee should be asked to describe the limitation(s) in some detail.

3. Is the person "qualified," i.e., can they perform the essential functions of the position, either with or without reasonable accommodation?

4. What accommodation, if any, can be provided that will assist the employee in performing the essential functions of the job?

PROCESSING THE ACCOMMODATION REQUEST

- **Purchase of equipment requires approval and may take time -- tell this to the individual and keep him/her informed of progress.**
  - **You may want to consider temporary or interim measures if you see that the request may be delayed because of budgetary constraints, equipment backorders, or vendor problems.**

PROCESSING THE ACCOMMODATION REQUEST

- **Be flexible -- one size doesn't fit all cases.**
  - **Use methods that put the fewest burdens on employee or applicant.**
  - **Discuss the request with the individual to see what options are open.**
  - **Seek guidance from Human Resources Office (HRO), Norfolk (EEO and/or Employee/Labor Relations), or your Command's legal Counsel.**

PROCESSING THE ACCOMMODATION REQUEST

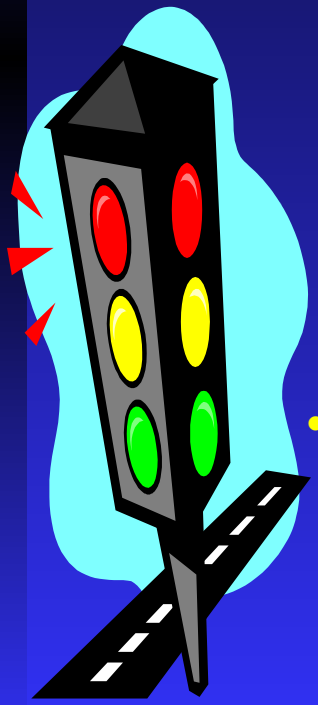
- **Consult an outside agency that specializes in accommodation assistance. HRO Norfolk's EEO Programs Department can provide a list of helping agencies. Contact the EEO Programs Department at (757) 445-1664.**

- **Identify all reasonable alternatives in the employee's same position.**

- **SUPERVISORS: Act promptly when a request for an accommodation is made by starting the interactive dialogue process. The request should be reduced to writing, if not done so initially, and dated. The creation of this document opens**

MEDICAL DOCUMENTATION

- A supervisor has the right to request medical documentation when the medical condition is not obvious. The request should be in writing and include a copy of a waiver for the employee to sign giving permission for any official, with a need to know, to review the documentation.



- The Medical Information must come from an appropriate professional and explain the nature of the disability and the need for reasonable accommodation, or to clarify how the requested accommodation will assist the employee to perform the essential functions of the job.
- The supervisor may provide the employee's position description to help the physician determine what type of accommodation would be best for the employee.
- Medical information obtained <u>MUST</u> be

DISPUTED OR INSUFFICIENT DOCUMENTATION

- If the supervisor does not get sufficient information in response to the initial request for documentation, they need to explain what additional information they need and then allow the individual an opportunity to provide it.

- Along with the supplemental medical information, if appropriate, examination by a medical specialist of the Department of the Navy's (DON) choosing and at DON's expense may be necessary.

- Note that there are limitations on the amount of documentation an employer may obtain. For example, you may not ask for an individual's entire medical record or for information about conditions unrelated to the impairment for which accommodation has been requested.

REASONABLE ACCOMMODATION SCENARIO #1

An employee requests an accommodation that requires her to have two hours off, twice weekly, for sessions with a Psychiatrist.

- What type of documentation would you ask for?

- **The employee should provide you with documentation from her Psychiatrist explaining the nature of the disability and the need for reasonable accommodation, or to clarify how the requested accommodation will assist the employee to perform the essential functions of the job.**

Possible accommodations:

- Allow employee to make up the time at the end of the day.
- Approve Leave or Leave Without Pay for those hours.

REASONABLE ACCOMMODATION SCENARIO #2

An employee who has Multiple Sclerosis (MS) has trouble moving about the office because her walker is too wide for the space in between the cubicles and requests an accommodation.

- Since the medical condition is obvious, **you should not** request medical documentation.
- To accommodate this employee you might want to rearrange the cubicles, or at least the cubicles in the areas she needs access to.
- What would you do?

REASONABLE ACCOMMODATION SCENARIO #3

- An employee who is visually impaired requests an accommodation to have a large computer monitor at her desk in order to see her work better.

- How could you accommodate this employee?

- Check with your Comptroller about funding and ordering this monitor.
- Contact the Department of Defense Computer/ Electronic Accommodations Program (CAP) at 1-703-693-5160 or TTY 703-693-5160

Keep the employee informed if there is going to be a delay in getting this monitor.

REQUEST FOR REASSIGNMENT

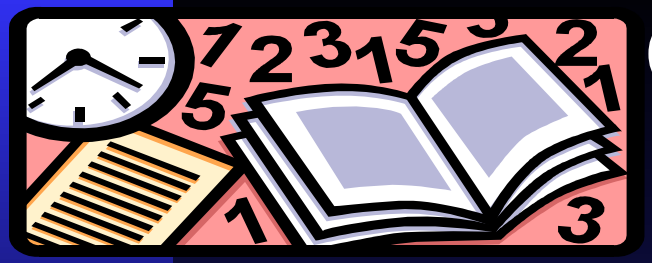
- **Reassignment is a "last resort" accommodation.**
  - **Must be considered when an employee cannot perform the essential functions of the position.**
  - **Reassignment may be made ONLY to a vacant position within the activity; if no vacancy exists, a wider search will be performed.**

- **The employee MUST BE QUALIFIED for the new position.**

DENYING A REQUEST

DENIALS MUST:

- **Be in writing, written in plain language.**
  - **State the reasons for the denial with as much specificity as possible.**
  - **Explore other options with the individual.**
  - **Inform the individual that he or she may seek informal dispute resolution or file an EEO complaint.**



QUICK REVIEW

- **Reasonable Accommodation is intended to remove barriers to employment and hiring.**

  - **The person must have a disability and provide appropriate documentation when requested.**

  - **Must relate to an essential function of a work position.**

  - **Requests may be made orally or in writing AND need only be made once if the condition is continuous.**

  - **Remember to treat each request on a case-by-case basis.**

QUICK REVIEW

- **Supervisors must talk with the employee to identify options; consult with experts if needed.**

- **Provide accommodation as soon as feasible.**

  If there are delays, keep the employee informed.
- **Medical documentation is confidential and**

  should be treated as such.
- **Work with the employee if documentation is incomplete or insufficient.**
- **All denials must be made in writing.**

SOME FINAL COMMENTS

- **Reasonable Accommodation is an area of human resources management and EEO that is very dynamic.**

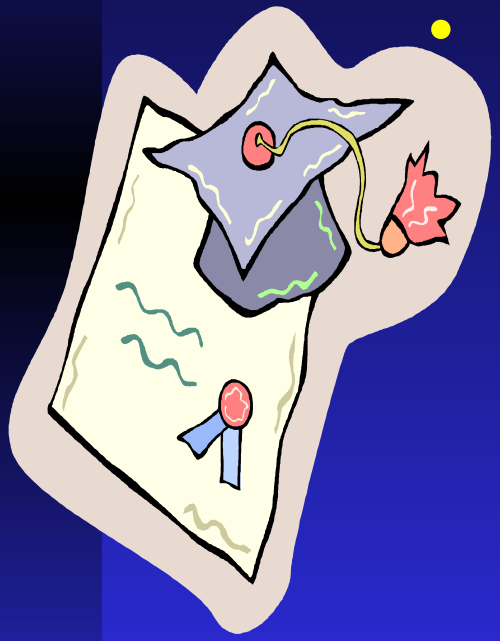
- **Take all requests for accommodation seriously, act on them quickly, and keep the employee informed.**

- **Remember: Please seek advice from your servicing EEO Programs Department or Employee/Labor Relations Department, HRO or Command Counsel.**

RESOURCES

- **U.S. Equal Employment Opportunity Commission (Voice: 1-800-669-3362) (TTY: 1-800-800-3302) http://www.eeoc.gov (Provides guidance on laws regarding EEO.)**
- **Job Accommodation Network (JAN) (Voice/TTY: 1-800-232-9675) http://www.jan.wvu.edu/links/ (Provides information about many types of reasonable accommodation.)**
- **ADA Disability and Business Technical Assistance Centers (DBTACs) (Voice/TTY: 1-800-949-4232) (Provides advice regarding the ADA.)**
- **Department of Defense Computer/Electronic Accommodations Program (CAP) (Voice: 703-693-5160; TTY: 703-693-5160) http://www.tricare.osd.mil/cap/resources/resources_dod.cfm (Can assist in providing adaptive devises.)**

HOW TO DOCUMENT COMPLETION OF THIS ON-LINE TRAINING



- **In order to update the personnel training database, please go to http://www.donhr.navy.mil and click on training, then click on training support documents, then the managing your training history link. For further guidance please contact the Human Resources Service Center East**

Remember: Always seek guidance from your servicing Employee/Labor Relations Specialist or the EEO Programs Department, HRO Norfolk at (757) 445-1664 and/or your servicing Command Counsel.